

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

ALBERT GRAY, ET AL	:	
	:	
VS.	:	C.A. NO. 04-312-L
	:	
JEFFREY DERDERIAN, ET AL	:	
	:	
ESTATE OF JUDE B. HENAULT, ET AL	:	
	:	
VS.	:	C.A. NO. 03-483-L
	:	
AMERICAN FOAM CORPORATION,	:	
ET AL	:	

**RULE 12(B)(6) MOTION TO DISMISS PLAINTIFF MICHELLE SPENCE'S
FIRST AMENDED MASTER COMPLAINT BY DEFENDANTS¹
INCORPORATING PRIOR MEMORANDA**

(Applicable to Plaintiff Michelle Spence² only in the matter of
George Guindon v. American Foam Corp., et al, C.A. No. 03-335L)

Without waiving any of its defenses related to service of process³, defendants General Foam Corporation, GFC Foam, LLC, Foamex, LP, Foamex International Inc., FMXI, Inc., PMC, Inc., and PMC Global, Inc. (collectively referred to as "GFC") hereby respectfully move this Court, pursuant to Federal Rules of Civil Procedure 12(b)(6) to dismiss the claims asserted

¹ All parties represented by counsel: General Foam Corporation, GFC Foam, LLC, Foamex LP, Foamex International, Inc., FMXI, Inc., PMC, Inc., and PMC Global, Inc.

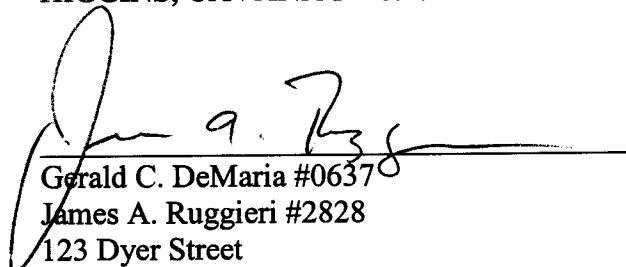
² Although Plaintiff Michelle Spence is named in the Guindon action, she has separate counsel and has adopted the Gray, et al v. Derderian, et al, C.A. No. 04-312-L First Amended Master Complaint without the additional allegations and claims set forth in Henault, et al v. American Foam Corporation, et al, C.A. No. 03-483-L.

³ GFC states that its counsel has received a copy of a Notice of Adoption of First Amended Master Complaint by plaintiff Michelle Spence in Guindon, et al v. Derderian, et al, C.A. No. 03-335-L. Only Foamex International has been served with service of process in this case. The remaining GFC defendants have never been served with service of process in this case. To the extent this pleading is before the Court and in response thereto, GFC submits this Motion to Dismiss.

against GFC on the grounds that plaintiff fails to state a cause of action against GFC as a matter of law. GFC hereby adopts the Supplemental Memorandum filed in support of its Rule 12(b)(6) Motion to Dismiss Gray Plaintiffs' First Amended Master Complaint, which incorporates by reference GFC's previously filed Rule 12(b)(6) Motion and accompanying Memorandum, as well as GFC's Reply Memorandum to Plaintiffs' Objections to Motion to Dismiss. For the reasons set forth in those memoranda, GFC requests that all claims asserted against GFC in the Plaintiff's Complaint be dismissed with prejudice.

Defendants⁴
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⁴ See n.1.

CERTIFICATION

I hereby certify that on the 4th day of February, 2005, a true copy of the within was e-mailed to:

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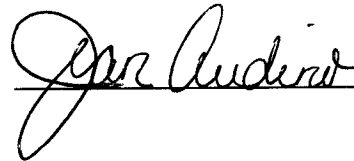
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A handwritten signature in black ink, appearing to read "John Audin", is written over a horizontal line.